

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

MICHELLE ORTIZ-COLON, per se and in *
representation of her minor children, WJL-O*
and ZML-O. *

Plaintiff *

v. *

EL LEGADO GOLF RESORT, *
Mr. GERARDO in his personal capacity and *
as Chairman of the Board of Directors of El *
Legado Golf Resort, MARISOL COLON in *
her personal capacity and as administrator of *
El Legado Golf Resort, JOHN DOE, RICHARD*
ROE and its respective insurance companies.*

Defendants *

CIVIL NO. 21-1424

ABOUT:

28 U.S.C. § 1331 and 1367
Title VII and 42 USC
Civil Rights Act 1964
Sexual Harassment & Discrimination
Retaliation
Defamation (libel and slander)
Arts. 1802 and 1803 of PR Civil Code
Torts

JURY TRIAL REQUESTED

COMPLAINT

TO THE HONORABLE COURT:

COME NOW plaintiffs, through the undersigned attorneys, and very respectfully state,
allege and pray:

I. JURISDICTION:

1. This Honorable Court has jurisdiction pursuant to 28 United States Code §§ 1331 and 1367. It is also a claim against the individuals in their personal capacity.

2. The jurisdiction of this Court is invoked under the provisions of the Title VII and the Civil Rights Act 1964, (color, sex discrimination; sexual preferences and/or gender discrimination), Sexual Discrimination, Sexual Harassment, Retaliation/Reprisal.

3. Plaintiffs suffered Defamation (libel and slander) by defendants so invoke the article 1802 and 1803 of Puerto Rico Civil Code and the Puerto Rico Law against discrimination and

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retaliation under the supplemental jurisdiction principles in the interest of judicial efficiency and economy, 28 United States Code § 1367 and other rights under other state (including PL 80) and federal labor laws were and continue to be violated by co-defendants. It is also a claim for Defamation and Sexual Harassment against the individuals in their personal capacity.

4. This Honorable Court also has venue pursuant to 28 United States Code § 1391 since the claims asserted in this action arose in this judicial district.

5. Trial by jury is hereby requested.

II. PARTIES:

7. Plaintiff Michelle Ortiz-Colon, legal age, single and is a resident of Guayama, Puerto Rico. Plaintiffs physical address is Community Miramar, 613 Amarilis St., Guayama, Puerto Rico and postal address is Bo. Puente Jobo Box 769-40, Guayama PR 00784.

8. Co-plaintiffs WJL-O and ZML-O are the minor children of Plaintiff Michelle Ortiz-Colon, they are being represented by her. They are totally dependent and live with Ortiz-Colon.

9. Co-defendant El Legado Golf Resort is a conglomerate containing a restaurant, golf club, resort/hotel and villas available for rent and for sale. It was the employer of Plaintiff Michelle Ortiz-Colon at the time of the facts alleged in the complaint. Its address: Road 713, Km 2.5 Bo. Villodas, Guayama, PR 00784, Phone Number: (787) 866-8894, E-mail Address: mgrounma@gmail.com.

10. Co-defendant Mr. Gerardo was the Chairman of the Board of Directors of El Legado Golf Resort at the time of the facts alleged in the complaint. The claims against him are in his personal capacity and as Chairman of the Board of Directors of El Legado Golf Resort.

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11. Co-defendant Marisol Colón was the administrator of El Legado Golf Resort at the time of the facts alleged in the complaint. The claims against her in her personal capacity and as manager of El Legado Golf Resort.

12. John Doe and Richard Roe are those persons who are in any way responsible for the facts and the damages alleged in this complaint. Included are the insurance companies of all the defendants.

III. FACTS:

Related to all claims against defendants.

13. El Legado Golf Resort is a conglomerate containing a restaurant, golf club, resort / hotel and villas available for rent and for sale.

14. Plaintiff Michelle Ortiz-Colon is a 34 old female, single mother, black, latin (Puertorican) from a rural area.

15. She started to work with *El Legado Golf Resort*' villas as maid and general maintenance in 2018. She was the only female employee in the position. She always worked in maintenance "uniform".

16. The performance of Plaintiff Michelle Ortiz-Colon during her career in El Legado Golf Resort was excellent, she was never admonished neither received any warning verbal or written. She received several oral performance appraisal including the promise/offer of a pay increase.

17. Plaintiff Michelle Ortiz-Colon attended the employer's 2019 Christmas party. She dressed as instructed; appropriate casual attire. At the party she was seated at the employees table. The administrator defendant Marisol Colón called defendant Mr. Gerardo to the table and asked him

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if he recognized Plaintiff Michelle Ortiz-Colon. Defendant Mr. Gerardo replied that he did not recognize Ortiz. The administrator Marisol then said “*She is Michelle, the girl who works in maintenance*”. Immediately Defendant Mr. Gerardo faced his wife and told her “*Close your eye*”, then turned his head, reclined and kissed Plaintiff Michelle Ortiz-Colon. Mrs. Ortiz-Colon stood up and left the table but could hear defendant Mr. Gerardo asking behind her, “*Are those hair extension or her real hair*”.

18. The administrator defendant Marisol Colon summoned Plaintiff Michelle Ortiz-Colon to her office and instructed her “*No le rias las gracias a Don Gerardo*”.

19. Several days later her co-workers stated to joke about Mr. Gerardo implying that Plaintiff Michelle Ortiz-Colon could get benefits in a personal relation. Mrs. Ortiz-Colon immediately told her co-workers to stop the jokes and comments.

20. The administrator defendant Marisol Colon set a small party and invited defendant Mr. Gerardo to it. Defendant Marisol Colon ordered Plaintiff Michelle Ortiz-Colon to get some food that defendant Mr. Gerardo was bringing to the party. Mr. Gerardo arrived to the storage area and Plaintiff Michelle Ortiz-Colon approached his vehicle and received a big and heavy tray from him. Plaintiff Michelle Ortiz-Colon walked to the storage room. Mr. Gerardo instructed Plaintiff Michelle Ortiz-Colon to put the tray in an oven located above the refrigerator. In order to reach the oven, Plaintiff Michelle Ortiz-Colon had to climb a ladder. Mr. Ortiz climbed the ladder and while there, Mr Gerardo was very close to her and said “*De cocina y de mujeres se yo*”.

21. Plaintiff Michelle Ortiz-Colon immediately reported the incident to the administrator, defendant Marisol Colon, who did nothing about it.

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22. On February 5, 2021, Plaintiff Michelle Ortiz-Colon was working and commuting from building 15 - 11 of the villas. Defendant Mr. Gerardo approached her and while following Plaintiff Michelle Ortiz-Colon said “Adiosssss”.

23. Plaintiff Michelle Ortiz-Colon immediately reported the incident her immediate supervisor Mr. Bonilla, who then referred it to the administrator, defendant Marisol Colon, who did nothing about it.

24. Several days later Mr. Gerardo’s wife showed at the employees’ working area and stated to insult and to defame Plaintiff Michelle Ortiz-Colon before all her co-workers; she said that the administrator defendant Marisol Colon showed her the complaints against Plaintiff Michelle Ortiz-Colon and showed the video recording taken of the complaints.

25. Plaintiff Michelle Ortiz-Colon immediately reported the incident to the administrator defendant Marisol Colon (the next day that she was available). Defendant Colon met with Mr. Gerardo’s wife and after the meeting Plaintiff Michelle Ortiz-Colon was fired/dismissed.

26. Later *El Legado Golf Resort* decided on not hiring any female for any jobs in the area.

27. Plaintiff Michelle Ortiz-Colon suffered violations to her civil rights, due process, discrimination (gender-sex), sexual harassment, discrimination (color - origin), retaliation/reprisals, etc. while working for her employer *El Legado Golf Resort*. She was subject of defamation / slander/ libel by the defendants, the Chairman of the Board of Director and the Administrator.

27a. Plaintiff filed a complaint in the U. S. Equal Employment Opportunity Commission (EEOC) on January 22, 2021. The Notice of Right to Sue was issued on June 7, 2021.

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IV. CAUSES OF ACTION:

All the paragraphs stated herein the Jurisdiction and Facts are literary incorporated herein and are made part of the following paragraphs and causes of action.

Defamation; libel and slander.

28. Plaintiff Michelle Ortiz-Colon suffered discrimination (gender-sex) and sexual harassment and reported several times but instead of being treated as a victim co-defendant Colon illegally divulged and told to other employees in the institution, a non employee (Mr. Gerardo's wife) and other unknown at the present, that Plaintiff Michelle Ortiz-Colon was under illegal acts and investigation. Defendants made false and defamatory statement concerning Plaintiff Michelle Ortiz-Colon (she suffered defamation; libel and slander).

Retaliation/Reprisal after Complaint

29. Plaintiff Michelle Ortiz-Colon immediately reported several incidents of sexual harassment against her by defendant Mr. Gerardo to the administrator defendant Colon. Colon even witness some of the acts committed by Mr. Gerardo.

30. Defendant Colon intentionally placed Plaintiff Michelle Ortiz-Colon in a very risk environment, she intentionally exposed her to unnecessarily damages. She retaliated (reprisal) against Plaintiff Michelle Ortiz-Colon firing/dismissing her after she formally file several complaints.

Endangered plaintiff's security & safety and Defamation; libel and slander

31. Defendant Colon intentionally filtered confidential work related information about Plaintiff Michelle Ortiz-Colon including false statements and allegations to unrelated persons (third

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party), including the wife of Mr. Gerardo. Defendant Colon placed Plaintiff Michelle Ortiz-Colon in a personal, physical and moral risk.

Title VII, Civil Rights Act

32. Co-defendants discriminated against Plaintiff Michelle Ortiz-Colon due to her gender, color, origin and because she did not accept the illegal sex advances of co-defendant Mr. Gerardo in violation of Title VII and the Civil Rights Act 1964, (country “girl”, color, sex discrimination; sexual preferences and/or gender discrimination).

Puerto Rico Civil Code, Articles 1802, 1803 31 L.P.R.A. Sec. 5141, et. seq., (Torts)

33. Plaintiff Michelle Ortiz-Colon and co-plaintiffs WJL-O and ZML-O (children of Michelle Ortiz-Colon) suffered damages, their rights were violated, under the provisions of *Puerto Rico Civil Code Article 1802, 1803 31 L.P.R.A. Sec. 5141, et. seq.*, (Torts) is invoked under the supplemental jurisdiction principles in the interest economy and of judicial efficiency. Damages under Public Law 80 also are invoked and claimed.

34. The wrongful and negligent acts of all co-defendants, their managers, officials, employees, and representatives, were the direct cause or contributed to the facts alleged in the complaint and all the damages suffers by the plaintiffs.

V. DAMAGES:

All the paragraphs stated herein in the Jurisdiction, Facts and Causes of Action are literary incorporated herein and are made part of the following paragraphs and causes of action. All defendants are jointly responsible for all damages caused and suffered by all plaintiffs.

35. Plaintiff Michelle Ortiz-Colon civil rights were violated; she was discriminated her

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rights under Title VII and the Civil Rights Act 1964 were violated; damages estimated on \$2,000,000.00.

36. Plaintiff Michelle Ortiz-Colon civil rights were violated; she suffered defamation; libel and slander, instigated against her by the individuals co-defendants mentioned in the previous paragraphs (facts); damages estimated on \$1,000,000.00.

37. Plaintiff Michelle Ortiz-Colon and co-plaintiffs WJL-O and ZML-O (children of Michelle Ortiz-Colon) had suffered and continue to suffer, severe emotional distress, affliction, anguish, economical damages, deprivation because of Plaintiff Michelle Ortiz-Colon's damages and suffering due to violation of state law and claimed under them as alleged and explained in the previous paragraphs (facts); damages estimated on \$1,000,000.00.

WHEREFORE, plaintiffs respectfully pray from this Honorable Court to render Judgement in favor of plaintiffs and to award them a sum no less than six million dollars (\$6,000,000.00) suffered by plaintiffs because of defendants wrongful acts and combined negligence, plus an additional amount for attorney fees and court costs, all to be paid severally by defendants.

JURY TRIAL DEMANDED.

RESPECTFULLY SUBMITTED.

In Ponce, Puerto Rico, on this 4th day of September of 2021.

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